

important nominations; that is, of Mr. Graham. The agreement that has been made by the two leaders and that is now part of the Senate record is that as soon as we finish this bill, we will move to that nomination. There is a time agreement that has already been made on that matter. The sooner we finish this bill, the sooner we can get to this important nomination of President Bush.

Mr. NICKLES. Mr. President, I concur. I compliment Senator REID for bringing forward Mr. Graham's nomination. That is a very important nomination. It deals with the Office of Regulatory Affairs. It deals with the cost of regulations. You cannot go a day without seeing some regulations that have an impact in the billions and billions of dollars. It is very difficult for President Bush to deal with this issue and not have his person installed as head of the office. We will have 7 hours of debate on Mr. Graham's nomination. I look forward to that debate and to his confirmation as well.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank my two colleagues. This is reasonable. I am concerned that when we have before us an important issue such as this energy bill, which really bears a lot on where we are going in this whole area of energy—and it is very important to me and to the American people—we get the amendments in. But this idea of having them filed by a certain time I think is really tough. We need a list perhaps. But thank you very much for this little change in direction.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—Continued

Mr. WELLSTONE. I say to the majority whip, am I to do my amendment to the bankruptcy bill?

Mr. REID. The Senator is right. I believe the Chair would tell us that there is only one amendment to be in order, which is the amendment of the Senator from Minnesota. The Senator agreed to an hour time limit, it is my understanding. I think the Senator should move forward so we can get to the energy bill as soon as possible.

AMENDMENT NO. 977 TO AMENDMENT NO. 974

Mr. WELLSTONE. Mr. President, I send amendment No. 977 to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 977 to amendment No. 974.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the General Accounting Office to conduct a study of the effects of the Act on bankruptcy filings, and for other purposes)

At the appropriate place, insert the following:

SEC. —. STUDY OF THE EFFECT OF THE BANKRUPTCY REFORM ACT OF 2001.

(a) STUDY.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study to determine—

(1) the impact of this Act and the amendments made by this Act on—

(A) the number of filings under chapter 7 and chapter 13 of title 11, United States Code;

(B) the number of plan confirmations under chapter 13 of title 11, United States Code, and the number of such plans that are successfully completed; and

(C) the cost of filing for bankruptcy under chapter 7 and chapter 13 of title 11, United States Code, in each State;

(2) the effect of the enactment of this Act on—

(A) the availability and marketing of credit; and

(B) the price and terms of credit for consumers; and

(3) the extent to which this Act and the amendments made by this Act impact the ability of debtors below median income to obtain bankruptcy relief.

(b) REPORT TO CONGRESS.—Not later than 2 years after the effective date of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DATA COLLECTION BY UNITED STATES TRUSTEES.—

(1) IN GENERAL.—The Director of the Executive Office for United States Trustees shall collect data on the number of reaffirmations by debtors under title 11, United States Code, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

(2) AVAILABILITY.—Periodically, but not less than annually, the Director shall make available to the public the data described in paragraph (1) in such manner as the Director may determine.

Mr. WELLSTONE. Mr. President, I want to get to the substance of my amendment in a moment. I want to respond for a moment to some of the comments from my colleague from Utah, Senator HATCH. The Senator from Utah said he was going to oppose this amendment because it was a "delaying" amendment.

I want Senators to know that I offer this amendment in good faith as an effort, in a modest way, to improve this bill. It says let's have a GAO study and look at the bankruptcy bill and analyze the effect of it. I don't know how Senators can vote against this, but I want to make it clear that a Senator could file a thousand amendments if this was all about delay. To my knowledge, this is the only amendment—my colleague from Wisconsin, Senator FEINGOLD, had filed an amendment, but I don't think he is going to offer it.

I just want to be clear that your vote on this amendment is a vote on wheth-

er or not you think we should be accountable for our vote. That is really what it is. So I don't want anybody to say I can vote against this amendment because it is some kind of a delaying tactic. That is simply not the case. What we have to say to people back in our States is: Look, in good conscience, I voted against an amendment to do a careful evaluation of this bankruptcy bill to see how it is working. You can figure out how you want to fill in the blank. That is the argument you have to make. You can't say: I voted against this amendment because it was a strategy of delay. That is ridiculous. It is just one amendment.

The second thing I have to do because you have to have a twinkle in your eye, and I think the Chair is one of the best at that. I just received today a solicitation from MBNA, which I think is the largest credit card bank in the country. They offered me a credit line of up to \$100,000. There is an introductory 1.7-percent annual percentage rate, including cash advance. I thank the credit card industry for not taking this personally. This is sent to people—to our kids and grandchildren—every day.

This amendment is straightforward. I hope, I say to the Chair, that it will garner universal support. It should. It doesn't attempt to undo anything the Senate did earlier this year. It doesn't revisit any of the debate that we have had. This is no trick.

Look, if I had my way, I would kill this bill. For 2½ years, I have been trying to do that. This amendment is all about accountability. The main provision of the amendment requires that the GAO do a study of the impact of the bankruptcy bill on debtors and consumers of credit. It is that simple. Both sides have made dramatic arguments or dramatic claims about this legislation. In my case, they have been negative. In the case of some of my colleagues, they have been positive.

My amendment says, OK, 2 years after this bill has become effective, let's have the General Accounting Office give us a report on how things have turned out. How in the world—I am amazed that there is opposition. There was a great Swedish sociologist, Gunnar Myrdal, who wrote, "Ignorance is never random." Sometimes maybe we don't want to know what we don't want to know. But I think it is really hard for Senators, Democrats and Republicans, to make an argument that you are unwilling to let the GAO do a study of this careful policy evaluation. That is what this amendment says. Will we be accountable for the votes we cast? For those who think it will be a great bill, you will get a chance to see. For those who think it is going to be harsh in its impact on people, of course, we want to know.

We are going to ask the GAO to study six things.

First, we are going to ask the GAO to report on the impact of the bill on the number of filings under chapter 7 and

chapter 13. This is important because the proponents of the bill have been something of a moving target on this issue. They argue that the point of the bill—particularly the means test—is to force more debtors who are now filing for chapter 7 into chapter 13—the logic being they can afford to do so.

I have heard colleagues say that is the only thing this is about. People should not get away with filing chapter 7 when they really have the money and they can instead file for chapter 13. But then the American Bankruptcy Institute found that very few people abuse chapter 7. Perhaps as low as 3 percent do that. And then the chapter 13 trustees reported that this bill will actually reduce chapter 13 filings by 20 percent from the current level because of the problem through additional burdens that the bill creates for chapter 13 filers.

Now, the proponents admit there may be fewer successful 13s. Also, I have argued that access to both chapters 7 and 13 are going to be reduced because of the means test and other burdensome requirements.

Let's find out. Those of you who say you are for the bill, you say it is because people have been gaming the system, but the evidence doesn't support that claim. I have talked about who the people are. Fifty percent of the people file for bankruptcy because of medical bills, or people have lost jobs, or there has been a divorce. But what I am saying is, since now we know that, in fact, there may not be so much abuse, and that many people can't file successfully for chapter 13, and maybe even are less able to do so under this legislation, let's have a study. Let's look at this. Two years hence, let's look at how this has worked. How can anybody be opposed to a careful policy evaluation?

Second, the GAO will look at chapter 13 specifically and the impact of this act on the number of plan confirmations in chapter 13 and the number of chapter 13 plans successfully completed. This is a key question because 67 percent of chapter 13 cases fail under current law. I will repeat that. Under current law, 67 percent of the people can't make it. If this legislation is going to make it even more difficult for people to make it, and this is what my colleagues call reform, what this amendment says is let's see what has happened. Let's see if I am right. Or forget me. Let's see if the U.S. Trustees are right, and if we aren't, no harm has been done. But if we are right, then perhaps the Congress might want to revisit this legislation.

When it becomes clear that a lot of hard-working people, through no fault of their own, wound up in very difficult, hellish financial circumstances, and then could not rebuild their lives because of this legislation, don't you think we want to know?

Colleagues, if you are right, you are right. But if you are wrong, you want to know if you are wrong. How can any Senator vote against this amendment?

Third, the General Accounting Office will examine the impact on the cost of filing chapter 7 and chapter 13 bankruptcies in each State. This is another key question—whether or not this bill will allow debtors to get bankruptcy relief. There is overwhelming evidence that the cost of filing bankruptcy is a major hurdle. Some families are going to have to save for months in order to do it.

They are, after all, insolvent. It is also a virtual certainty that this bill will make it more expensive to file, as the Wall Street Journal noted earlier this year. Again, let's hold ourselves accountable and have the General Accounting Office study this issue for certain.

Fourth, the GAO will report on the impact of the bill on the availability and marketing of credit. Something very interesting happened in 1999 and 2000 while the proponents of so-called reform were bleating about the rising number of bankruptcies. The bean counters in the consumer credit industry realized that all these bankruptcies were not good for profits so they started lending less money, and they were more careful about who they lent the money to and, in fact, overall consumer debt level actually declined in 1998, and guess what. We had fewer bankruptcies. This trend continued to 1999 and 2000. Bankruptcies only started rising again as the economy started to turn downward.

Several economists have suggested that when you restrict access to bankruptcy protection, as this bill does, you are going to increase the number of filings and defaults because the banks are going to be more willing to lend the money to marginal candidates because they do not have to worry about people then filing for bankruptcy. Indeed, it is no accident that that is exactly what happened after the bill was passed in 1984.

As the May 21 issue of *Business Week* notes in an article titled "Reform That Could Backfire":

Indeed, [Mark] Zandi believes that tougher bankruptcy laws will simply induce lenders to ease their standards even more. States with the highest bankruptcy rates already have stringent wage garnishment laws, yet net losses to credit card issuers in such States have been similar to those in States following less restrictive bankruptcy rules.

Let's see if the experts are right. Have the General Accounting Office do a study.

Fifth, we want to look at the effective so-called reform bill on the price and terms of credit for consumers. What we hear by the credit card companies and proponents of these bills is that all of these bankruptcies have led to higher interest charges and fees for honest consumers. That is because, they say, the credit card companies and banks pass on the costs of the default to consumers.

In fact, I remind colleagues, the credit card companies have calculated the cost of this tax on consumers to be \$400

per year. This has been cited as a reason that we need reform. The decent, hard-working people are getting charged \$400 more a year because of people who are the slackers and are gaming the system, although there are not very many slackers.

Maybe this is all true, but it only matters in the context of the bill if passing this "reform" measure actually results in savings to consumers.

By the way, there is not much evidence that is going to happen. Consider this: In 1999 and 2000, when bankruptcy rates and defaults were dropping sharply, interest rates and fees on credit cards were actually rising, and the bank and credit card lender profits were also rising. This suggests that if there were any savings, they were not passed on to consumers.

If this industry is going to run the show, let's insist, after this bill passes, there are going to be these great savings for consumers. Let's just do a careful study of that.

Sixth, the GAO will investigate the extent to which the bill impacts the ability of debtors below median income to obtain bankruptcy relief.

I have heard colleagues say over and over that nothing in this bill will affect the ability of low-income debtors to get a fresh start. In fact, I heard the Senator from Alabama make that claim the other day. If that is the case and if the only thing this legislation is about is going after those people who are the slackers or the cheaters, then let's take a look at it.

As I said before, there are a lot of provisions in this bill that are going to make it much harder for people to get a fresh start, and it has nothing to do with whether or not they were cheaters or slackers. I am talking about the people who have really been put under, no fault of their own.

Let's have the GAO take a look at this question: Are we going to have a lot of debtors who are going to face these hurdles to filing regardless of their circumstances?

Finally, there is one other part of this amendment. It directs the Director of the Office of U.S. Trustees to collect data on reaffirmation agreements, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

Under this bill, creditors will have more leeway to force reaffirmations—agreements where debtors reaffirm their intention to pay back the debt and so the debt is not wiped out in bankruptcy. Unfortunately, these agreements are commonly abused by creditors under current law.

I talked about what happened with Sears, Roebuck. They paid \$498 million in settlement damages in 1999 and \$60 million in fines for illegally coercing reaffirmations—agreements with borrowers to repay debt—from its cardholders. Apparently this is just the cost of doing business. Bankruptcy judges in California, Vermont, and New York have claimed that Sears is still

up to its old strong-arm tactics but is now using legal loopholes to avoid disclosure. This amendment will bring some transparency to the reaffirmations and allow us to study how they are being abused.

This is a modest amendment. I have been fighting this bankruptcy bill for a long time, and other Senators have been out here fighting. If it is going to go to conference committee, then I am going to depend on Senator LEAHY and others to improve this bill, although I think there is going to be a vote we are going to deeply regret.

The most vulnerable people are the ones who are going to pay the price. The economy is turning downward and a lot of people may find themselves in terrible circumstances—no fault of their own—and are going to have a very difficult time rebuilding their lives.

I am amazed that the credit card industry in institutional terms—not Senator to Senator. Every Senator votes how he or she thinks is right. I am saying can we not at least do an evaluation? Can we not at least make sure that 2 years from now we have the General Accounting Office do a study so we know what is happening around the country?

If the proponents of this legislation are right and this truly was a reform and it truly works well and all of the harsh and negative consequences I have spent hours talking about do not turn out to be the case, I will be glad to be proven wrong. But for those of you who support this legislation, surely you also, first of all, want to be right, but if you are wrong and I am right, then you want to know you are wrong so you can change the course of policy. You do not want to see a lot of innocent people, ordinary citizens hurt by this legislation just because the large financial service industry has such clout. We all know about their power. We all know that this is one-sided.

There is not a word in this legislation—I am sorry, on the Senate side, there is a minuscule piece on disclosure, but nowhere are they called into question or called into accountability. They pump this stuff out every day. I got one today. Credit line up to \$100,000. Our children get it. Every day they send this stuff out in the mail. Every day they try to hook people on their credit, and we are arguing that when it comes to bankruptcy, the only people who are at fault are the people who wind up in trouble, not these big credit card companies for their irresponsible, reckless lending policies.

Shouldn't we call on them to be more accountable? We have not. Shouldn't there be more balance to this legislation? There is not. Am I right that a lot of low- and moderate-income people are going to be hurt, that a lot of single-parent families headed by women are going to be hurt? Am I right that a lot of children who live in these families are going to be hurt? Am I right that a lot of families who have been

put under because of medical bills are going to be hurt? Am I right that families—because the husband or the wife, the major wage earner, loses his or her job and finds themselves in terrible circumstances—are going to be hurt?

I think I am right. If I am wrong, I will be prayerfully thankful to be wrong. If I am right and you are wrong, you will want to know you are wrong so we can do something in a hurry before a whole lot of ordinary citizens get hurt very badly by this legislation.

Every Senator should vote for this amendment. There is no reason to vote no.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that we leave the bankruptcy legislation now before the Senate until the hour of 3:20, at which time we expect Senator HATCH to return and speak on the amendment of the Senator from Minnesota. Senator DOMENICI and I would like to go to the energy and water bill during this short period of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1186 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002—Resumed

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 987

Ms. STABENOW. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW) for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. DURBIN, Mr. DAYTON, Mr. FEINGOLD, Mr. SCHUMER, Mr. KOHL, Mr. WELLSTONE, Mrs. CLINTON, Mr. BAYH, and Mr. VOINOVICH proposes an amendment numbered 987.

Ms. STABENOW. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To set aside funds to conduct a study on the effects of oil and gas drilling in the Great Lakes)

On page 2, line 18, before the period, insert the following: “, of which such sums as are necessary shall be used by the Secretary of the Army to conduct and submit to Congress a study that examines the known and potential environmental effects of oil and gas drilling activity in the Great Lakes (including effects on the shorelines and water of the Great Lakes): *Provided*, That during the fiscal year for which this Act makes funds available and during each subsequent fiscal year, no Federal or State permit or lease shall be issued for oil and gas slant, directional, or offshore drilling in or under 1 or more of the Great Lakes (including in or under any river flowing into or out of the lake)”.

Ms. STABENOW. Mr. President, my amendment, which is a bipartisan amendment and which shares the strong support of colleagues from around the Great Lakes Basin, seeks to protect the waters of the Great Lakes by asking for a study of the impact of any oil and gas drilling in our Great Lakes. And it places a moratorium on new drilling until we have factual scientific review of the danger of any potential oil and gas drilling.

In case my colleagues are not aware, 30 to 50 new oil and gas drilling permits could be issued as soon as the next few weeks for extraction under Lake Michigan and Lake Huron. This is moving forward only in the waters of the State of Michigan despite the overwhelming opposition of almost all local communities that would be affected by drilling and by the public at large.

We don't want to see these oil rigs dotting the shoreline of Lake Michigan or any of our beaches around the Great Lakes.

This amendment says that before anything as serious as this picture shows would occur we want to make sure that the Army Corps of Engineers does a complete study and analysis, and that we have thoughtful consideration of the impact this would create.

I want to make it clear that this is a local and regional issue. Drilling in the